



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/597,598

08/01/2006

Stefan Tobolka

93179-19

3662

22463 7590 10/01/2008

SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO, ON M5G2K8
CANADA

EXAMINER

SELLS, JAMES D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,598	Applicant(s) TOBOLKA, STEFAN	
	Examiner James Sells	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21 and 22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08/01/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (US Patent 5,403,427) in view of Sharps, Jr. et al (US Patent 4,872,942).

Wilcox discloses a seal bar. As shown in the figures, the seal bar system comprises halves 12a and 12b, heating element 16, cutting knife 18, and temperature sensor 24. Seal bar halves are preferably made of a heat transfer material such as aluminum (see col. 3, lines 3-5). In operation, the seal bar seals and severs overlapping portions of packaging material 41 with controller 32 maintaining the operating temperature of the seal bar 10

Regarding claims 1, 14 and 19, Wilcox does not explicitly disclose that the seal bar halves (i.e. supporting base) have a lower thermal conductivity than the cutting knife. However, it is the examiner's position that it would have been obvious to employ a cutting knife with a high thermal conductivity in order to cut the materials more easily. Therefore it would have been obvious to one having ordinary skill in the art to employ seal bar halves with a lower thermal conductivity than the cutting knife in the apparatus and system of Wilcox.

Art Unit: 1791

However, Wilcox does not disclose the type of heater claimed by the applicant.

Regarding this difference, the applicant is directed to the reference of Sharps.

Sharps discloses a seal bar assembly comprising seal bar structure 30 and cutting element 32. At col. 5, lines 53-62, Sharps disclose that the seal bar is dielectric. At col. 6, lines 16-37, Sharps discloses that the cutting element 32 is heated by an intermittent or pulsed electrical current. At col. 6, lines 16-37, Sharps discloses the method of operation of the seal bar. This method involves raising the temperature of element 32 to approximately 1500°F to heat and seal the materials.

It would have been obvious to one having ordinary skill in the art to substitute the heating system taught by Sharps for the heating element in the apparatus and system of Wilcox since the heating systems are functionally equivalent alternate expedients in the art. Further, it is the examiner's position that specific materials (i.e. anodized aluminum and ceramic) and employing first and second temperatures are well known and conventional in the art and would have been obvious to employ in the system of Wilcox as a matter of design choice based upon the physical properties of the materials.

Telephone/Fax

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (571) 272-1237. The examiner can normally be reached on Monday-Friday.

Art Unit: 1791

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phil Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sells/
Primary Examiner, Art Unit 1791